

5/27 C2 inserting a chip on which an array of reactive species is immobilized into the storage well, the chip resting on the base of the storage well.

#### REMARKS

Claims 1-13 and 15-19 are pending. By this Amendment, claims 1 and 17 are amended. In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

The attached Appendix includes marked-up copies of each rewritten claim (37 C.F.R. §1.121(c)(1)(ii)).

Applicants appreciate the courtesies extended to Applicants' representative by Examiner Cross and Supervisory Patent Examiner Warden in the October 8, 2002, personal interview. The substance of the personal interview is discussed below.

#### **I. The Claims Define Allowable Subject Matter**

The Office Action rejects claims 1, 2, 4, 6, 9, 10 and 17-19 under 35 U.S.C. §102(a) as unpatentable over U.S. Patent No. 5,945,334 to Besemer et al. (hereinafter "Besemer"); and rejects 3, 5, 7, 8 and 11-16 as unpatentable over Besemer in view of Great Britain publication 2,147,698 to Albon et al. (hereinafter "Albon"). These rejections are respectfully traversed.

Besemer does not disclose, teach or suggest an assay assembly, comprising, inter alia, a chip, a storage well having a continuous base and side walls, the chip is located in the storage well and rests on said base of the storage well, as claimed in independent claim 1. Further, Besemer does not disclose, teach or suggest a method of constructing an assay assembly comprising the steps of providing a storage well including a base and side walls; and inserting a chip on which an array of reactive species is immobilized into the storage well, the chip resting on the base of the storage well, as claimed in independent claim 17.

As pointed out during the October 8 personal interview, Besemer, at col. 1, line 63 to col. 2, line 2, is concerned with providing a chip package in which the chip is located on a

cavity through which fluids can then be circulated and exposed to materials carried on the chip.

Besemer, at col. 1, lines 66-67, col. 2, lines 31-32, col. 7, lines 1-3 and in Fig. 6, discloses a chip 120 disposed above cavity 310. Besemer is absolutely clear in its disclosure that "[p]referably, the chip cavity is slightly smaller than the surface area of the chip to be placed thereon". (Besemer, at col. 7, line 1-3)

Further, as agreed during the October 8 personal interview, Besemer fails to disclose, teach or suggest a storage well and a chip resting on the base of the storage well, as claimed in independent claims 1 and 17.

Albon does not cure the deficiencies of Besemer. Further, Albon provides no motivation to modify its structure to achieve the claimed invention.

As required by MPEP Section 706.02(j), to establish a prima facie case of obviousness, these basic criteria must be met:

- 1) There must be some suggestion or motivation in the references themselves or in the knowledge generally available;
- 2) Reasonable expectation of success;
- 3) The prior art reference must teach or suggest all claim limitations.

The first and third requirements have not been met by the rejections of the Office Action. Albon does show any motivation to modify its structure to achieve the claimed invention, and the Office Action clearly admits that there is an essential part of the claimed invention missing in Besemer.

For at least these reasons, it is respectfully submitted that claims 1 and 17 are distinguishable over the applied art. Claims 2-13 and 15-16, which depend from claim 1, and claims 18-19, which depend from claim 17, are likewise distinguishable over the applied art

for at least the reasons discussed as well as for the additional features they recite.

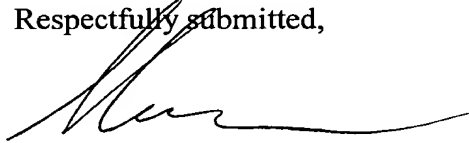
Withdrawal of the rejections under §102(a) and §103(a) are respectfully requested.

## **II. Conclusion**

For at least the reasons set forth above, Applicants respectfully submit that the claims define patentable subject matter. Favorable consideration and prompt allowance are respectfully solicited.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact the Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



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Attachments:  
Appendix  
Petition for Extension of Time

Date: October 9, 2002

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<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
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## APPENDIX

## Changes to Claims:

The following is a marked-up version of the amended claims:

1. (Amended) An assay assembly, comprising:  
a chip on which an array of reactive species is immobilized; and  
a storage well having a continuous base and side walls;  
wherein said chip ~~is separate from said base and said chip~~ is located in said storage well and rests on said base of said storage well.
17. (Amended) A method of constructing an assay assembly, comprising:  
providing a storage well including a base and side walls; and  
inserting a chip on which an array of reactive species is immobilized into the storage well, the chip resting on the base of the storage well.